

2 SHB 2772 - S COMM AMD
3 By Committee on Ecology & Parks

4 ADOPTED 2/29/96

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 90.58.030 and 1995 c 382 s 10, 1995 c 255 s 5, and
8 1995 c 237 s 1 are each reenacted and amended to read as follows:

9 As used in this chapter, unless the context otherwise requires, the
10 following definitions and concepts apply:

11 (1) Administration:

12 (a) "Department" means the department of ecology;

13 (b) "Director" means the director of the department of ecology;

14 (c) "Local government" means any county, incorporated city, or town
15 which contains within its boundaries any lands or waters subject to
16 this chapter;

17 (d) "Person" means an individual, partnership, corporation,
18 association, organization, cooperative, public or municipal
19 corporation, or agency of the state or local governmental unit however
20 designated;

21 (e) "Hearing board" means the shoreline hearings board established
22 by this chapter.

23 (2) Geographical:

24 (a) "Extreme low tide" means the lowest line on the land reached by
25 a receding tide;

26 (b) "Ordinary high water mark" on all lakes, streams, and tidal
27 water is that mark that will be found by examining the bed and banks
28 and ascertaining where the presence and action of waters are so common
29 and usual, and so long continued in all ordinary years, as to mark upon
30 the soil a character distinct from that of the abutting upland, in
31 respect to vegetation as that condition exists on June 1, 1971, as it
32 may naturally change thereafter, or as it may change thereafter in
33 accordance with permits issued by a local government or the department:
34 PROVIDED, That in any area where the ordinary high water mark cannot be
35 found, the ordinary high water mark adjoining salt water shall be the

1 line of mean higher high tide and the ordinary high water mark
2 adjoining fresh water shall be the line of mean high water;

3 (c) "Shorelines of the state" are the total of all "shorelines" and
4 "shorelines of state-wide significance" within the state;

5 (d) "Shorelines" means all of the water areas of the state,
6 including reservoirs, and their associated shorelands, together with
7 the lands underlying them; except (i) shorelines of state-wide
8 significance; (ii) shorelines on segments of streams upstream of a
9 point where the mean annual flow is twenty cubic feet per second or
10 less and the wetlands associated with such upstream segments; and (iii)
11 shorelines on lakes less than twenty acres in size and wetlands
12 associated with such small lakes;

13 (e) "Shorelines of state-wide significance" means the following
14 shorelines of the state:

15 (i) The area between the ordinary high water mark and the western
16 boundary of the state from Cape Disappointment on the south to Cape
17 Flattery on the north, including harbors, bays, estuaries, and inlets;

18 (ii) Those areas of Puget Sound and adjacent salt waters and the
19 Strait of Juan de Fuca between the ordinary high water mark and the
20 line of extreme low tide as follows:

21 (A) Nisqually Delta«from DeWolf Bight to Tatsolo Point,

22 (B) Birch Bay«from Point Whitehorn to Birch Point,

23 (C) Hood Canal«from Tala Point to Foulweather Bluff,

24 (D) Skagit Bay and adjacent area«from Brown Point to Yokeko Point,

25 and

26 (E) Padilla Bay«from March Point to William Point;

27 (iii) Those areas of Puget Sound and the Strait of Juan de Fuca and
28 adjacent salt waters north to the Canadian line and lying seaward from
29 the line of extreme low tide;

30 (iv) Those lakes, whether natural, artificial, or a combination
31 thereof, with a surface acreage of one thousand acres or more measured
32 at the ordinary high water mark;

33 (v) Those natural rivers or segments thereof as follows:

34 (A) Any west of the crest of the Cascade range downstream of a
35 point where the mean annual flow is measured at one thousand cubic feet
36 per second or more,

37 (B) Any east of the crest of the Cascade range downstream of a
38 point where the annual flow is measured at two hundred cubic feet per
39 second or more, or those portions of rivers east of the crest of the

1 Cascade range downstream from the first three hundred square miles of
2 drainage area, whichever is longer;

3 (vi) Those shorelands associated with (i), (ii), (iv), and (v) of
4 this subsection (2)(e);

5 (f) "Shorelands" or "shoreland areas" means those lands extending
6 landward for two hundred feet in all directions as measured on a
7 horizontal plane from the ordinary high water mark; floodways and
8 contiguous floodplain areas landward two hundred feet from such
9 floodways; and all wetlands and river deltas associated with the
10 streams, lakes, and tidal waters which are subject to the provisions of
11 this chapter; the same to be designated as to location by the
12 department of ecology. Any county or city may determine that portion
13 of a one-hundred-year-flood plain to be included in its master program
14 as long as such portion includes, as a minimum, the floodway and the
15 adjacent land extending landward two hundred feet therefrom;

16 (g) "Floodway" means those portions of the area of a river valley
17 lying streamward from the outer limits of a watercourse upon which
18 flood waters are carried during periods of flooding that occur with
19 reasonable regularity, although not necessarily annually, said floodway
20 being identified, under normal condition, by changes in surface soil
21 conditions or changes in types or quality of vegetative ground cover
22 condition. The floodway shall not include those lands that can
23 reasonably be expected to be protected from flood waters by flood
24 control devices maintained by or maintained under license from the
25 federal government, the state, or a political subdivision of the state;

26 (h) "Wetlands" means areas that are inundated or saturated by
27 surface water or ground water at a frequency and duration sufficient to
28 support, and that under normal circumstances do support, a prevalence
29 of vegetation typically adapted for life in saturated soil conditions.
30 Wetlands generally include swamps, marshes, bogs, and similar areas.
31 Wetlands do not include those artificial wetlands intentionally created
32 from nonwetland sites, including, but not limited to, irrigation and
33 drainage ditches, grass-lined swales, canals, detention facilities,
34 wastewater treatment facilities, farm ponds, and landscape amenities,
35 or those wetlands created after July 1, 1990, that were unintentionally
36 created as a result of the construction of a road, street, or highway.
37 Wetlands may include those artificial wetlands intentionally created
38 from nonwetland areas to mitigate the conversion of wetlands.

39 (3) Procedural terms:

1 (a) "Guidelines" means those standards adopted to implement the
2 policy of this chapter for regulation of use of the shorelines of the
3 state prior to adoption of master programs. Such standards shall also
4 provide criteria to local governments and the department in developing
5 master programs;

6 (b) "Master program" shall mean the comprehensive use plan for a
7 described area, and the use regulations together with maps, diagrams,
8 charts, or other descriptive material and text, a statement of desired
9 goals, and standards developed in accordance with the policies
10 enunciated in RCW 90.58.020;

11 (c) "State master program" is the cumulative total of all master
12 programs approved or adopted by the department of ecology;

13 (d) "Development" means a use consisting of the construction or
14 exterior alteration of structures; dredging; drilling; dumping;
15 filling; removal of any sand, gravel, or minerals; bulkheading; driving
16 of piling; placing of obstructions; or any project of a permanent or
17 temporary nature which interferes with the normal public use of the
18 surface of the waters overlying lands subject to this chapter at any
19 state of water level;

20 (e) "Substantial development" shall mean any development of which
21 the total cost or fair market value exceeds two thousand five hundred
22 dollars, or any development which materially interferes with the normal
23 public use of the water or shorelines of the state; except that the
24 following shall not be considered substantial developments for the
25 purpose of this chapter:

26 (i) Normal maintenance or repair of existing structures or
27 developments, including damage by accident, fire, or elements;

28 (ii) Construction of the normal protective bulkhead common to
29 single family residences;

30 (iii) Emergency construction necessary to protect property from
31 damage by the elements;

32 (iv) Construction and practices normal or necessary for farming,
33 irrigation, and ranching activities, including agricultural service
34 roads and utilities on shorelands, and the construction and maintenance
35 of irrigation structures including but not limited to head gates,
36 pumping facilities, and irrigation channels. A feedlot of any size,
37 all processing plants, other activities of a commercial nature,
38 alteration of the contour of the shorelands by leveling or filling
39 other than that which results from normal cultivation, shall not be

1 considered normal or necessary farming or ranching activities. A
2 feedlot shall be an enclosure or facility used or capable of being used
3 for feeding livestock hay, grain, silage, or other livestock feed, but
4 shall not include land for growing crops or vegetation for livestock
5 feeding and/or grazing, nor shall it include normal livestock wintering
6 operations;

7 (v) Construction or modification of navigational aids such as
8 channel markers and anchor buoys;

9 (vi) Construction on shorelands by an owner, lessee, or contract
10 purchaser of a single family residence for his own use or for the use
11 of his family, which residence does not exceed a height of thirty-five
12 feet above average grade level and which meets all requirements of the
13 state agency or local government having jurisdiction thereof, other
14 than requirements imposed pursuant to this chapter;

15 (vii) Construction of a dock, including a community dock, designed
16 for pleasure craft only, for the private noncommercial use of the
17 owner, lessee, or contract purchaser of single and multiple family
18 residences. This exception applies if either: (A) In salt waters, the
19 ((cost)) fair market value of ((which)) the dock does not exceed two
20 thousand five hundred dollars; or (B) in fresh waters, the fair market
21 value of the dock does not exceed ten thousand dollars, but if
22 subsequent construction having a fair market value exceeding two
23 thousand five hundred dollars occurs within five years of completion of
24 the prior construction, the subsequent construction shall be considered
25 a substantial development for the purpose of this chapter;

26 (viii) Operation, maintenance, or construction of canals,
27 waterways, drains, reservoirs, or other facilities that now exist or
28 are hereafter created or developed as a part of an irrigation system
29 for the primary purpose of making use of system waters, including
30 return flow and artificially stored ground water for the irrigation of
31 lands;

32 (ix) The marking of property lines or corners on state owned lands,
33 when such marking does not significantly interfere with normal public
34 use of the surface of the water;

35 (x) Operation and maintenance of any system of dikes, ditches,
36 drains, or other facilities existing on September 8, 1975, which were
37 created, developed, or utilized primarily as a part of an agricultural
38 drainage or diking system;

1 (xi) Site exploration and investigation activities that are
2 prerequisite to preparation of an application for development
3 authorization under this chapter, if:

4 (A) The activity does not interfere with the normal public use of
5 the surface waters;

6 (B) The activity will have no significant adverse impact on the
7 environment including, but not limited to, fish, wildlife, fish or
8 wildlife habitat, water quality, and aesthetic values;

9 (C) The activity does not involve the installation of a structure,
10 and upon completion of the activity the vegetation and land
11 configuration of the site are restored to conditions existing before
12 the activity;

13 (D) A private entity seeking development authorization under this
14 section first posts a performance bond or provides other evidence of
15 financial responsibility to the local jurisdiction to ensure that the
16 site is restored to preexisting conditions; and

17 (E) The activity is not subject to the permit requirements of RCW
18 90.58.550;

19 (xii) The process of removing or controlling an aquatic noxious
20 weed, as defined in RCW 17.26.020, through the use of an herbicide or
21 other treatment methods applicable to weed control that are recommended
22 by a final environmental impact statement published by the department
23 of agriculture or the department jointly with other state agencies
24 under chapter 43.21C RCW."

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27 ADOPTED 2/29/96

28 On page 1, line 6 of the title, after "1971;" strike the remainder
29 of the title and insert "and reenacting and amending RCW 90.58.030."

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